

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED  
CENTRAL FAX CENTER**

**APR 25 2005**

<b>In the Application of</b>	)	
	)	
<b>Applicants: James D. Logan et al.</b>	)	
	)	<b>Examiner</b>
<b>Serial No. 10/769,2004</b>	)	<b>Unassigned</b>
	)	
<b>Filed: January 31, 2004</b>	)	<b>Art Unit 2611</b>
	)	
<b>Title: Methods and apparatus for recording and</b>	)	
<b>replaying time-shifted broadcast programming</b>	)	
<b>using visually displayed options</b>	)	

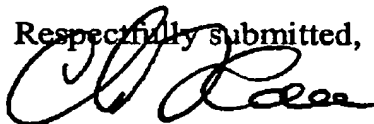
Commissioner of Patents and Trademarks  
Washington, DC 20231

Dear Sir:

**FAX TRANSMISSION COVER LETTER**

These 6 pages, including this cover letter and the attached Request for Reconsideration (4 pages), Petition for time extension (1 page), and credit card payment form (1 page), are being transmitted via facsimile to the central facsimile number of United States Patent and Trademark Office, (703) 872-9306, on April 25, 2005.

Respectfully submitted,



Dated: April 25, 2005

Charles G. Call, Reg. 20,406  
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**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED  
CENTRAL FAX CENTER****APR 25 2005****In the Application of****Applicants: James D. Logan et al.****Serial No. 10/769,383****Filed: January 31, 2004****Title: Methods and apparatus for recording and  
replaying time-shifted broadcast programming  
using visually displayed options****Examiner  
Unassigned****Art Unit 2611****Commissioner of Patents and Trademarks  
Washington, DC 20231****Dear Sir:****Request for Reconsideration of Petition Under 37 CFR 1.47(a)**

This request is being filed in response to the notification sent on January 24, 2005 that the petition filed on December 15, 2004 pursuant to 37 C.F.R. §1.47 was dismissed. In that petition, applicants sought to file the above identified application on their behalf and on behalf of Brian D. Doe, a joint inventor, who refused to sign the declaration that accompanied this petition.

The petition was denied for two reasons, which are addressed individually below.

**The refusal to sign by Brian Doe**

The first basis for the denial of the petition was grounded on the requirement in 37 CFR 1.47(a) that a grantable petition under 37 CFR 1.47(a) requires proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings). Specifically, the denial stated:

*"With regard to item (1), the petition is dismissed because the showing of record is unclear as to whether the declaration accompanying the application papers sent to the non-signing inventor with the transmittal letter dated 18 October, 2004, recited the proper inventive entity. A review of the papers received on 15 December, 2004, reveals that the declaration signed by joint inventor*

*Boone does not list Jeffrey M. Santos as a joint inventor. Additionally, it is noted that the two (2) pages of declaration listing Durgin, Read, and Doe, and Palone, Boone, and Santos, respectively, are both titled as "Page 1 of 3". As it is unclear whether Doe was presented with a declaration listing Santos as a joint inventor, it cannot be ruled out that Doe refused to sign the declaration due to inventorship per se.*

Reconsideration is requested. While the specific page signed by joint inventor Boone did not list Jeffrey Santos as co-inventor, another submitted page did list Jeffrey Santos who did sign the declaration, as explained below with respect to the second ground for the denial.

Moreover, it is clear from the letter sent by Express Mail to Mr. Doe dated October 18, 2004 which was sent by Express Mail to Mr. Doe on October 19, 2004, requesting him to sign the declaration (Exhibit A to the Petition), that Mr. Doe was provided with a copy of the application which listed all eleven co-inventors and that the declaration form signed by the all of the other inventors was included with the application provided to Mr. Doe for his review at the time. Exhibit A, second paragraph. Moreover, as shown by Exhibit B, this material was delivered to Mr. Doe on October 20, 2004 who signed a receipt which was thereafter provided by the U.S. Postal Service. Still further, as stated by applicants' undersigned attorney, in the Petition, Mr. Doe never communicated a refusal to me to sign the declaration, nor has he responded in any way other than to indicate that he would sign the declaration. There is accordingly no basis for believing that the declaration presented to Mr. Doe did not list Mr. Santos as a co-inventor, or that Mr. Doe refused to sign the declaration due to inventorship as suggested in the denial of the petition

**The page signed by Mr. Boone**

The second reason given for the denial of the petition was that the declaration filed with the petition did not comply with 35 U.S.C. §§ 115 and 116 in that the joint inventor Boone allegedly signed a declaration that did not name the proper inventive entity. In this regard, it is noted that 35 U.S.C. §§ 115 and 116 set forth the requirements for the declaration and requires only that "*When an invention is made by two or more persons jointly, they shall apply for patent jointly and each make the required oath, except as otherwise provided in this title.*" There is no requirement that a single declaration form must name all of the inventors.

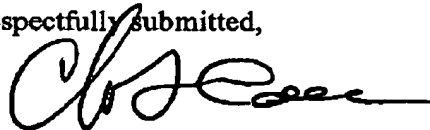
All of the eleven co-inventors signed the required declaration, save Mr. Doe, and all of their signatures were included, either on the two page declaration, or on one of the supplemental sheets. All of the named co-inventors thus signed a declaration which stated that they had reviewed the content of the specification, which clearly identified all of the eleven co-inventors on page 1, and which in all other respects complied with the statute and the rules. It is pointed out that it is common practice to have co-inventors separately sign separate forms, and there is no requirement in the statute or the rules that requires the forms to be identical. All the statute and rules require is that each co-inventor make the required oath which, with the exception of Mr. Doe, was done.

Applicants' undersigned attorney hereby represents and confirms that each of the eleven co-inventors was supplied with a copy of the declaration form and a copy of the specification, including the claims, and the drawings, and that each of them with the exception of Mr. Doe, signed the declaration provided, and each of the signature pages containing those signatures was filed with the petition. The supplemental signature sheet signed by Mr. Boone differed from the supplemental signature sheet signed by Mr. Palone and Mr. Santos, in that the supplemental sheet signed by Mr. Boone omitted the printed name of Mr. Santos. However, each of those three inventors did sign the required declaration as required by the statute.

### Conclusion

Applicants according request that the previously filed petition under 37 CFR 1.47(a) be reconsidered and granted for the reasons set forth above.

Respectfully submitted,



Charles G. Call, Reg. 20,406

Dated: April 25, 2005

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this **Request for Reconsideration of Petition under 37 CFR 1.47(a)**, together with a Petition for a One Month Extension of Time, and a credit card fee payment form, are being transmitted by facsimile to the central facsimile number of the U.S. Patent and Trademark Office, (703) 872-9306, on April 25, 2005.

Dated: April 25, 2005

Signature



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